IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1760 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MAHENDRASINH BHAGWATSINH ZALA

Appearance:

1. Special Civil Application No. 1760 of 1999

MRS VASAVDATTA BHATT for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 09/01/2002

ORAL JUDGEMENT

The present petition is filed by the Gujarat State Road Transport Corporation challenging the

judgement and award of the Labour Court, Baroda, in Reference No.179 of 1992, which was given New Reference No.260 of 1997, dated 14.8.1998 whereby the learned Labour Judge was pleased to order reinstatement of the respondent-workman - driver with continuity of service and 25% of back wages and cost of Rs.500/- of the said Reference.

2 The facts of the case are that the respondent-workman while serving as a driver was on duty driving bus from Vadodara to Godhra met with an accident wherein eight passengers died and 64 passengers were injured. The department by an order dated 22.4.1991 dismissed the respondent-workman from service. The respondent-workman had filed an appeal before the appellate authority, which was rejected. He then filed second appeal, which was also rejected. He then raised an industrial dispute wherein the present judgement and award was passed by the learned Judge. On perusal of the papers it appears that the learned Labour Judge was carried away by the fact that the respondent-workman was acquitted in the criminal proceedings and therefore he came to the conclusion that the penalty of dismissal imposed by the ST Corporation is excessive. On the face of it, the judgement and award of the learned Labour Judge is erroneous and requires to be quashed and set aside by this Court. It is surprising that the learned Labour Judge having recorded in para 9 to the effect that `while considering the aspect of reasonableness of the penalty imposed on the respondent-workman it is true that the respondent-workman has shown serious negligence while discharging his duties and that on account of accident caused during his duty he has caused inconvenience to the public and the institution and that he has disregarded administrative rules of the institution', for the reasons which are not tenable in law has passed the award in question. The only reason which has weighed with the learned Labour Judge is that the respondent-workman was acquitted in the criminal proceedings.

3 In the result, this petition is allowed. The judgement and award of the Labour Court is quashed and set aside. However, no order is passed for costs.

(Ravi R Tripathi, J.)
(mohd)